

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0349 AGI

Individual Income Tax

For Tax Period: 1990 Through 1991

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ISSUE

I. Individual Income Tax – Adjusted Gross Income

Authority: IC 6-3-1-3.5; IC 6-3-1-12 ; IC 6-3-4-1

Taxpayer protests the imposition of individual income tax for tax years 1990 and 1991.

STATEMENT OF FACTS

Taxpayer was assessed individual income tax by the Department based on information received from a federal audit. Taxpayer protested the assessments. Additional information will be provided below, as necessary.

I. Individual Income Tax – Adjusted Gross Income

DISCUSSION

Taxpayer was assessed individual income tax based on information received by the Department from the federal taxing authorities. At the administrative hearing, the taxpayer claimed the action taken against him by the Internal Revenue Service had been dismissed. Taxpayer claimed the liabilities assessed by the Department should be cancelled as well. Taxpayer declined to submit proof of this dismissal when requested. Taxpayer stated the basis of his protest was fully argued in his brief to the Department, dated November 11, 1996. Taxpayer requested the Letter of Findings be written based on his brief.

In taxpayer's brief, he claims he was not a resident of Indiana for purposes of the adjusted gross income tax. Taxpayer concedes he was a citizen of Indiana but attempts to illustrate that because the definition of "resident" (as provided in the Indiana Code) does not include the term "citizen" he could not be a resident and subject to the tax.

Taxpayer is mistaken. Taxpayer classifying himself as a "citizen" had absolutely nothing to do with whether or not he was a "resident" for purposes of the adjusted gross income tax. Taxpayer was subject to the tax, as will be illustrated below.

Pursuant to IC 6-3-1-3.5, adjusted gross income is defined. IC 6-3-4-1(1) requires a return, with respect to the adjusted gross income tax, to be made by "every resident individual having for the taxable year gross income in an amount greater than the modifications provided under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4)..."

"Resident" is defined in IC 6-3-1-12 as including:

- (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state, or (c) any estate of a deceased person defined in (a) or (b), or (d) any trust which has a situs within this state.

Taxpayer has failed to provide evidence that he was not a resident of Indiana for the taxable periods. Taxpayer established that he was a citizen of Indiana (as defined by Black's Law Dictionary). Taxpayer then continues his protest by arguing that since the definition of "resident" does not include any reference to citizenship, he was not a resident. Taxpayer argues "I am not a mere 'Resident' or 'resident person' of the State of Indiana, as I am a Citizen. A Citizen is something completely unique from a mere 'resident' under the law as a 'Citizen' is defined quite specifically in Black's Law Dictionary." Taxpayer's Protest p. 3. The Department does not agree with the taxpayer's argument. The definition of resident is not all-inclusive. By failing to mention, specifically, citizens of Indiana, the definition does not necessarily exclude them.

Taxpayer next argues he did not have any gross income under federal law which was the basis for the state adjusted gross income tax. Taxpayer fails to provide any evidence in support of this argument.

Taxpayer finally discusses the definitions of "items," "sources of income" and "exclusions" and ultimately determines himself exempt from any income tax because he did not "have any 'gross income' from 'sources' under the law." Taxpayer's Protest p. 8. The Department, however, does not understand or agree with the taxpayer's argument. According to the information received from the federal taxing authorities, the taxpayer did receive income which subjected the taxpayer to the state's adjusted gross income tax.

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FINDING

Taxpayer's protest is denied.